



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

May 14, 1991

Mr. George Chapman
Executive Director
Texas Workers' Compensation Commission
4000 South IH-35
Austin, Texas 78704

OR91-237

Dear Mr. Chapman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12249.

The Texas Workers' Compensation Commission (the commission) received an open records request for all bid proposals it received on a particular IFB for a new computer system. You state the commission received only one bid in response to the IFB and that the commission chose not to award the contract to the bidder. Consequently, a second IFB that modifies the first has been circulated to potential bidders. You contend that section 3(a)(4) of the Open Records Act protects the requested proposal from required public disclosure because its release at this time would give an unfair advantage to those who would compete in the second round of bidding.

Section 3(a)(4) of the Open Records Act protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 3(a)(4) is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. *See, e.g.,* Open Records Decision No. 463 (1987). Governmental bodies may withhold this type of information while the governmental officials are in the process of interpreting the proposals and the competitors are free to furnish additional information. *Cf.* Open Records Decision No. 170 (1977).

Although section 3(a)(4) does not generally except bids or proposals from disclosure where no contract is awarded, *see* Open Records Decision No. 201

(1978), the release of the proposal at this time is likely to injure the commission's purchasing interests as well as the competitive position of the companies that may submit bids in response to the second IFB. We agree that the commission may withhold the proposal at this time pursuant to section 3(a)(4). Consequently we need not address your claims with regard to the act's other exceptions to disclosure.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-237.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/RWP/lb

Ref.: ID# 12249

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